

### **REMARKS**

In the Office Action, the Examiner rejected claims 75, 78, 83, 86, 95, 96, 99, 102, 103, 115, 116, 123, and 124. By this paper, the Applicants hereby amend claims 75, 83, 95, and 99, cancel claims 88-94, 101, and 118-121, and add new claims 126-131 to clarify certain features to expedite allowance of the present application. These amendments do not add any new matter. In view of the foregoing amendments and the following remarks, the Applicants respectfully request reconsideration and allowance of all pending claims.

### **Interview Summary**

On August 7, 2007, the Applicants' attorney, Tait R. Swanson (Reg. No. 48,226), conducted a telephonic interview with Examiner Ferguson. During this interview, the Examiner suggested several amendments pertaining to the embodiment shown in FIG. 10 of the present application. For example, the Examiner suggested that the prior art fails to teach or suggest different sets of walls that define sockets at different angular positions. In addition, the Examiner faxed a sample independent claim to the Applicants' attorney on August 7, 2007. The parties did not reach any agreement regarding the claims.

In view of this telephonic interview, the Applicants hereby amend the independent claims based on the Examiner's suggestions. Furthermore, the Applicants add new independent claim 131 based entirely on the sample independent claim faxed to Applicants' attorney in association with the telephonic interview.

### **Claim Objections**

The Examiner objected to claims 102 and 103 due to various informalities, which the Applicants hereby correct in the amendments set forth above. Therefore, the Applicants respectfully request withdrawal of the claim objections.

**Claim Rejections under 35 U.S.C. § 112, Second Paragraph**

The Examiner rejected claims 75, 78, 82, 102, 103, 115, and 116 under 35 U.S.C. § 112, Second Paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicants regard as the invention. The Applicants respectfully traverse this rejection.

***Legal Precedent and Guidelines***

The examiner's focus during examination of claims for compliance with the requirement for definiteness of 35 U.S.C. 112, second paragraph, is whether the claim meets the threshold requirements of clarity and precision, not whether more suitable language or modes of expression are available. *See* M.P.E.P. § 2173.02. Although the Examiner may take exception to the terms used in the claims, the patentee may be his own lexicographer. *Ellipse Corp. v. Ford Motor Co.*, 171 U.S.P.Q. 513 (7<sup>th</sup> Cir. 1971), *aff'd*, 613 F.2d 775 (7<sup>th</sup> Cir. 1979), *cert. denied*, 446 U.S. 939 (1980). The Applicant may use functional language, alternative expressions, negative limitations, or any style of expression or format of claim which makes clear the boundaries of the subject matter for which protection is sought. *See* M.P.E.P. §§ 2173.01 and 2173.05; *In re Swinehart*, 439 F.2d 10, 160 U.S.P.Q. 226, (CCPA 1971). The Examiner is also reminded not to equate breadth of a claim with indefiniteness. *In re Miller*, 441 F.2d 689, 169 U.S.P.Q. 597 (CCPA 1971).

The essential inquiry pertaining to the definiteness requirement is whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity. *See* M.P.E.P. § 2173.02. As set forth in Section 2173 of the Manual of Patent Examining Procedure, definiteness of claim language must be analyzed, not in a vacuum, but in light of:

- (A) The content of the particular application disclosure;
- (B) The teachings of the prior art; and
- (C) The claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.

In reviewing a claim for compliance with 35 U.S.C. 112, second paragraph, the examiner must consider the claim as a whole to determine whether the claim apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112, second paragraph, by providing clear warning to others as to what constitutes infringement of the patent. *See Solomon v. Kimberly-Clark Corp.*, 216 F.3d 1372, 1379, 55 U.S.P.Q.2d 1279, 1283 (Fed. Cir. 2000). Only when a claim remains insolubly ambiguous without a discernible meaning after all reasonable attempts at construction must a court declare it indefinite. *See Metabolite Labs., Inc. v. Lab. Corp. of Am. Holdings*, 370 F.3d 1354, 1366, 71 U.S.P.Q.2d 1081, 1089 (Fed. Cir. 2004). Accordingly, a claim term that is not used or defined in the specification is not indefinite if the meaning of the claim term is discernible. *See Bancorp Services, L.L.C. v. Hartford Life Ins. Co.*, 359 F.3d 1367, 1372, 69 U.S.P.Q.2d 1996, 1999-2000 (Fed. Cir. 2004).

### ***Deficiencies of Rejection***

In the Office Action, the Examiner specifically stated:

Claim 75 (lines 1-4) recites “A system comprising: an integral automotive linkage ... comprising: a hollow elongated member.” Claim 75 fails to clearly recite what elements are assembled together to constitute the claimed system; only one element of such system has been claimed, the automotive linkage. Accordingly, on[e] is unable to determine what constitutes a “system” as recited in claim 75; thus one is unable to determine the metes and bounds of such claim. Office Action, page 3.

The Applicants respectfully disagree with the Examiner’s rejection. The Applicants believe that the Examiner is confusing claim breadth with indefiniteness. Claim 75 recites “an integral automotive linkage” and states that the linkage is “configured to mount within an automobile.” In view of the foregoing legal precedent, one of ordinary skill in the art would readily understand the scope and meaning of the claims. Like claim 75, claims 78, 82, 102, 103, 115, and 116 are similarly well defined. For at least these reasons, among others, the Applicants respectfully request withdrawal of the rejections under Section 112, Second Paragraph.

### **Claim Rejections under 35 U.S.C. § 102**

In the Office Action, the Examiner rejected claims 75, 78, 82, 83, 86, 95, 99, 102, 103, 115, 116, 123, and 124 under 35 U.S.C. § 102(b) as anticipated by Lofqvist (U.S. Patent No. 2,716,564). Applicants respectfully traverse this rejection. Of the claims rejected by the examiner under §102, claims 75, 83, 95, and 99 are independent claims.

### ***Legal Precedent and Guidelines***

Anticipation under section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under section 102, a single reference must teach each and every limitation of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). Accordingly, the Applicants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter. The prior art reference also must show the *identical* invention “*in as complete detail as contained in the ... claim*” to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989).

### ***The Lofqvist reference is missing features recited by independent claim 75.***

Independent claim 75 is presently amended to recite “the multi-sided perimeter has fewer sides than the multi-sided interior, and the multi-sided perimeter mates with different sides of the multi-sided interior in the plurality of angularly offset socket positions.” Lofqvist does not teach or suggest that the attachment has fewer sides than the socket, as now recited by independent claim 75. The Lofqvist reference shows a drill steel and a connector piece that have six sides each. In addition, based on the telephonic interview summarized above, the Applicants stress that Lofqvist fails to teach or suggest “the multi-sided perimeter mates with different sides of the multi-sided interior in the plurality of angularly offset socket positions,” as recited by claim 75.

In view of these deficiencies, among others, the cited reference cannot anticipate independent claim 75 and its dependent claims.

***The Lofqvist reference is missing features recited by independent claim 83.***

The presently amended independent claim 83 recites, *inter alia*, “an elongated automotive linkage comprising a first end, a second end, and a uniform cross-section from the first end to the second end configured to mount integrally within an automobile, wherein the uniform cross-section comprises a geometry characterized by two superimposed squares.” (Emphasis added). The sketch provided by the Examiner shows rectangles, rather than squares, drawn inside the geometry of the Lofqvist reference. Office Action, page 5. While it is possible to draw squares inside the Lofqvist hexagonal geometry, the squares cannot reasonably be used to characterize the geometry. In view of these deficiencies, among others, the cited reference cannot anticipate independent claim 83 and its dependent claims.

***The Lofqvist reference is missing features recited by independent claim 95.***

The presently amended independent claim 95 recites, *inter alia*, a “family of linkage joints having different geometries and joint mechanisms.” (Emphasis added). The cited reference does not teach or suggest “linkage joints having different geometries and joint mechanisms,” as recited by independent claim 95. In sharp contrast, the cited reference discloses a mechanism for “attaching a drill crown to a drill steel or drill steels to each other.” Lofqvist, col. 1, lines 32-34. The Lofqvist reference lacks linkage joints, as recited in the present claims. In addition, based on the telephonic interview summarized above, the Applicants stress that Lofqvist fails to teach or suggest “the standard attachment portion comprises a first set of sides configured to mate mutually exclusively with a second set of sides and a different third set of sides of a multi-sided interior of the uniform lengthwise cross-section,” as recited by claim 95. In view of these deficiencies, among others, the cited reference cannot anticipate independent claim 95 and its dependent claims.

***The Lofqvist reference is missing features recited by independent claim 99.***

The present independent claim 99 recites, *inter alia*, “the uniform socket geometry comprises a multi-sided interior defined by a plurality of superimposed squares.” The cited reference does not teach or suggest “a multi-sided interior defined by a plurality of superimposed squares,” as recited by independent claim 99. Furthermore, as discussed above under claim 83, squares cannot reasonably be used to define the hexagonal geometry of the hexagon shaped member described in Lofqvist. In addition, based on the telephonic interview summarized above, the Applicants stress that Lofqvist fails to teach or suggest “a first joint coupled to the uniform socket geometry at a first end of the linkage via a first set of mating walls defined by the plurality of superimposed squares; and a second joint coupled to the uniform socket geometry at a second end of the linkage opposite the first end via a second set of mating walls defined by the plurality of superimposed squares, wherein the first and second sets of mating walls are different from one another,” as recited by claim 99. In view of these deficiencies, among others, the cited reference cannot anticipate independent claim 99 and its dependent claims.

***The Kurian reference is missing features recited by independent claim 83.***

The cited reference does not teach or suggest “the uniform cross-section comprises a geometry characterized by a plurality of superimposed squares that are rotated about 45 degrees relative to one another,” as recited by independent claim 83. Kurian discloses a geometry defined by a single square, and in one embodiment shows that the single square has “arcuate” corners. Kurian, col. 3, lines 16-17. As presently amended, claim 83 recites that the geometry-defining squares are rotated about 45 degrees relative to one another. In sharp contrast, Kurian would not work if a square defined by additional flat surfaces along the arcuate corners were 45 degrees from the first set of flat surfaces. Indeed, if angle “A” in Kurian’s Fig. 2 were 45 degrees, the shaft 12 would rotate freely inside the sleeve 14. In addition, based on the telephonic interview summarized above, the Applicants stress that Kurian fails to teach or suggest the features presently recited by claim 83. In view of these deficiencies, among others, the cited reference cannot anticipate independent claim 83 and its dependent claims.

***The Kurian reference is missing features recited by independent claim 95.***

Independent claim 95 recites “a family of linkage joints having different geometries and joint mechanisms.” Kurian merely recites a “universal joint yoke,” rather than a *family of joints with different geometries*. Kurian col. 1, lines 43-46. In addition, based on the telephonic interview summarized above, the Applicants stress that Kurian fails to teach or suggest “the standard attachment portion comprises a first set of sides configured to mate mutually exclusively with a second set of sides and a different third set of sides of a multi-sided interior of the uniform lengthwise cross-section,” as recited by claim 95. In view of these deficiencies, among others, the cited reference cannot anticipate independent claim 95 and its dependent claims.

***The Kurian reference is missing features recited by independent claim 99.***

Again, based on the telephonic interview summarized above, the Applicants stress that Kurian fails to teach or suggest “a first joint coupled to the uniform socket geometry at a first end of the linkage via a first set of mating walls defined by the plurality of superimposed squares; and a second joint coupled to the uniform socket geometry at a second end of the linkage opposite the first end via a second set of mating walls defined by the plurality of superimposed squares, wherein the first and second sets of mating walls are different from one another,” as recited by claim 99. In view of these deficiencies, among others, the cited reference cannot anticipate independent claim 99 and its dependent claims.

**Conclusion**

The Applicants respectfully submit that all pending claims should be in condition for allowance. However, if the Examiner believes certain amendments are necessary to clarify the present claims or if the Examiner wishes to resolve any other issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

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